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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,831	10/07/2004	Charles Allen Crawford	JD-295A	5830

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EXAMINER

HAMLIN, DERRICK G

ART UNIT PAPER NUMBER

1751

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/711,831

Applicant(s)

CRAWFORD ET AL.

Examiner

Derrick G. Hamlin

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 recites the limitation of using "sodium chlorite", however it is not clear if the applicant is referring to sodium hypochlorite or sodium chloride. Further clarification is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Evaluations of level of ordinary skill in the art requires consideration of factors such as various prior art approaches employed, types of problems encountered in the art, rapidity with which innovations are made, sophistication of technology involved, educational background of those actively working in the field, commercial success, failure of others, and the inventor's educational level.

The "person having ordinary skill" in this art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this case reasonably reflect this level of skill.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Beavan (US 4,390,441 A).

Beaven discloses a composition in solid or liquid form for machine dishwashing is disclosed, containing a builder such as a phosphate salt, an alkaline material such as sodium silicate and a halite such as sodium chlorite. The composition is for use with a machine incorporating an ultraviolet light source to irradiate the dishes and/or the liquor. The composition may also include a low-foaming or non-foaming surfactant and other usual adjuncts, especially enzymes. An exemplified composition is 33% tripolyphosphate, 27% sodium disilicate, 33% chlorite, 7% sodium tetraborate. (abstract) For the purposes of stain removal, particularly the removal of tea and coffee stains, and for the purposes of providing a germicidal effect, it is known to include hypochlorite compounds in machine dishwashing formulations. (col. 1, lines 4-6) The reference teaches that chlorites are used as oxidizing agents in acid media, for example for bleaching cellulose, the chlorite in acid media producing chlorine dioxide which is the species responsible for the bleaching. (col. 1, lines 28-31) Furthermore, chlorite ions are known to react with chlorine or chlorine producing materials such as calcium hypochlorite or sodium dichloro-isocyanurate to produce chlorine dioxide. (col. 3, lines 65-68) From 0.5% to 60% by weight of a material yielding halite ions in aqueous media with sufficient alkaline material to give the composition a pH of at least 7.0 when

dispersed at 0.5 g/l in water is also disclosed. (col. 1, lines 61-66) The compositions disclosed containing chlorine dioxide and a detergent were used in a dish washer to clean tea stained cups at temperatures of 20-65 degrees C. (col. 5 and 6, Table 2)

The reference is anticipatory.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Coughlin et al. (US 6,423,675 A).

A composition for a cleaning-in-place system is described. The composition has a halogen dioxide and a optionally hydroxide and does not require the use of a detergent to display excellent cleaning and disinfecting properties on processing equipment such as the equipment found in breweries, dairy plants and carbonated beverage plants. (abstract) In a fourth embodiment, this invention is directed to processing equipment comprising, internally, the CIP composition of this invention or processing equipment coated with the CIP composition of this invention, or both. (col. 2, lines 11-14)

The reference is anticipatory.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Beavan (US 4,390,441 A).

Beaven is relied upon for the reasons stated in the rejection above.

The reference does not teach the instant invention with sufficient specificity to constitute anticipation. The reference fails to teach that the composition disclosed removes chlorhexidine gluconate stains.

The is anticipatory or in the alternative would have been obvious in view of the reference as the removal chlorhexidine gluconate stains is an inherent property of the compound. Furthermore the reference does teach that chlorine dioxide is used to remove tea stains, and there would therefore be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art suggest that the agent is an affective stain remover. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use chlorine dioxide to remove chlorhexidine gluconate stains.

Claims 9 and 19-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Beavan (US 4,390,441 A).

Beaven is relied upon for the reasons stated in the rejection above.

The reference fails to teach the composition is used for laundry or fabric treatments. The reference also teaches away from the use of acids with sodium hypochlorite in a dish washing machine.

The reference does teach that chlorites are used as oxidizing agents in acid media, for example for bleaching cellulose, the chlorite in acid media producing chlorine

dioxide, therefore there would be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art suggest bleaching a cellulose material and textile and are often a cellulose material.

Additionally, the reference makes it clear that when bleaching a cellulose the chlorite in acid is employed. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the instant composition for the bleaching of a cellulose material.

In view of the forgoing, the above claims have failed to be patently distinguishable over prior art.

The remaining references listed on form(s) 892 and/or 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (571) 272-1317. The examiner can normally be reached on Monday-Fridays from ~8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick G. Hamlin

12/8/04



NICHOLUS OGDEN  
PRIMARY EXAMINER